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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,046	07/13/2001	Frank Leymann	DE920000015US1	6970

877 7590 03/04/2004

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EXAMINER

BARQADLE, YASIN M

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 03/04/2004

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/682,046

Applicant(s)

LEYMANN ET AL.

Examiner

Yasin M Barqadle

Art Unit

2153

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

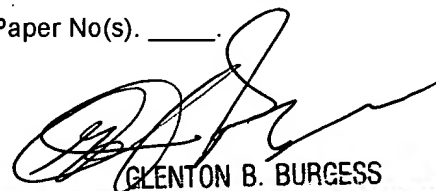
3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.Claim(s) objected to: None.Claim(s) rejected: 1-18.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

GLENTON B. BURGESS
SUPERVISORY PATENT EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: Note: in response to applicants argument on page 2, that the "combination of Kirch and Connelly does not teach or suggest 'inserting into a central availability-database a first-element comprising a notification period'" and further that the examiner's argument the "timing table [of Kirch] stores heartbeat signals from operational nodes is incorrect". Examiner disagrees and would like to point out to the applicant col. 8, 36-56 where Kirch discloses wherein the heartbeat packets are informatinal messages that provide a repeated periodic indication that a path of communication is operable (alive). Again in col. 9, lines 13-21 Kirch discloses that the heartbeat packets are received and examined by each receiving node and a history of the receipt of the heartbeat packet is stored in an internal timing table, where the history includes the IP address from where the heartbeat was received as well as the time that it was received. Therefore, what is received is a heartbeat packet that indicates the continuing availability of a communication path (node). Additionally, it is noted that the features upon which applicant relies (i.e., the internal timing table stores information relating only to the receipt of the packets, and not the packet itself) are not recited in the rejected claim(s).

In response to applicant's argument on page 3, that " the central repository of Connelly stores only events which are generated by a computer system due to a change in its status affecting availability". Examiner would like to point out that the events stored in Connelly's central repository are availability events (col. 4, line 1-3) that measure availability of computers, including stand-alone and clusters of computers (col. 4, lines 53-53-67). see also col. 10, lines 44-50 and col. 18, lines 52-55. Therefore, the combination of Kirch and Connelly teach and suggest the claimed invention of 'inserting into a central availability-database a first-element comprising a notification period as explained above.